IN THE HIGH COURT OF UTTRANCHAL
AT NAINITAL
A.O. No. 146/2002

United India Insurance Co. Ltd.
through its Divisional Manager,
Divisional Office,
Tikonia, Haldwani
District Nainital .....Appellant.

Versus

1- Smt. Phatingi Devi W/o Late Ramayan Yadav,
C/o Satendra Kumar Yadav,
Government Degree College,
Bazpur, District U.S. Nagar,
2- General Manager,
The Bazpur Co-operative Sugar Factory
Ltd. Bazpur, District U.S. Nagar .... Respondents.

Sri Prabhat Pande, learned counsel for the appellant.

Hon'ble B.C. Kandpal, J.:

This appeal, under Section 30 Workmen Compensation Act, 1923, has been preferred by United India Insurance Company Ltd., against the award dated 23-4-2002, passed by the Workmen Compensation Commissioner/Deputy Labour Commissioner U.P. Kumaon Region, Haldwani (Nainital) in W.C.A. case No. 54/1999, Smt. Phatingi Devi Vs. General Manager, Bazpur Cooperative Sugar Factory, Bazpur and others, whereby the claimant/respondent was awarded Rs. 1,64,628/- towards compensation against the United India Insurance Company Ltd.

2- The relevant facts of the case are that late Ramayan Yadav, husband of claimant/respondent Smt. Phatingi Devi was employed in Bazpur Sugar Factory as Head Fitter. On 15-3-1999, Ramnarayan Yadav was on duty in between 6 P.M to 2 A.M. in the night. During the course of his employment due to bulky work he got heart-attack and at about 7 P.M. died. The deceased at the time of his

death was aged about 59 years. Hence the claim petition was presented before the Workmen Compensation Commission (hereinafter referred as the 'Commissioner').

3- The employer of the deceased, i.e. Bazpur Sugar Factory contested the case before the 'Commissioner' and admitted the employment as well as the duty of the deceased at the relevant time. However, it was alleged that the manner in which the death of Ramnarayan Yadav had occurred, is not connected with his employment. He died due to sudden heart failure and no compensation can be awarded in lieu of his death. It was also alleged that if the Commissioner reach at the conclusion that the death was caused during the course of employment, in that event the United India Insurance Company is liable to pay compensation, as the Factory is insured with it. It was also alleged that the intimation of the accident was also communicated to the insurer in Form No.18.

4- Parties led evidence in support of their cases. Thereafter the Commissioner allowed the petition for payment of compensation to the tune of Rs. 1,64,628/- to be paid by the United India Insurance Company.

5- Feeling aggrieved, the insurer has come up in appeal before this court.

6- Heard learned counsel for the parties and perused the record.

7- The learned counsel for the appellant has submitted that no personal injury was caused to the deceased while discharging his duty in the course of employment, but he died due to heart failure and the Commissioner has

committed error in allowing the petition of the claimant/respondent. It was also argued that the learned Commissioner has awarded a high amount of compensation.

8- In my opinion there is no substance on the submissions raised by the learned counsel for the appellant.

9- Perusal of record shows that the facts of the case are not disputed. It is admitted to the employer that the deceased was in its employment and it is also admitted that the deceased Ramnarayan Yadav was on duty at the time of his death. It has also come in evidence that the deceased had no disease prior to his death. The case of the claimant side is that the heart attack was the cause of bulky work with the deceased. The heart attack was occurred during the course of his employment, hence the legal heirs of the deceased are entitled to get the compensation for the death of Ramnarayan Yadav. It is also not disputed that the Sugar Factory is insured with the appellant/insurance company and the learned Commissioner has not committed any error in fixing the liability of the insurer to pay the compensation. I find no infirmity in the finding recorded by the learned Commissioner in this regard.

10- So far as the amount of compensation is concerned, undisputedly the deceased was getting Rs. 4,845/- per month as salary and he was 59 years of age at the time of his death. The Commissioner assessed Rs. 2000/- per month for calculation of the compensation amount. The Commissioner awarded Rs. 1,21,050/- towards the salary and also awarded Rs. 43,578/- as interest @ 12% per annum from 15.3.99 to 15.3.2002, the date of death

of the deceased and the date of presentation of petition respectively. I find no infirmity in the finding recorded by the learned Commissioner in this regard also.

11. In the result the appeal bears no force and is liable to be dismissed.

12- Accordingly the appeal is dismissed. The impugned judgment and award dated 23.4.2002 passed by the learned Commissioner, is hereby confirmed.

(B.C. Kandpal, J.)

Dated: October 31, 2006
Aswal.